IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.808 OF 2006
IN
SUIT NO.601 OF 2006

Visen Industries Ltd. ...Plaintiffs
Vs.
M.Ranganathan ...Defendant

Mr.V.J.Brambhatt, Advocate for Plaintiffs
None for the Defendant

CORAM: SMT. ROSHAN DALVI, J.
DATE : 18TH DECEMBER, 2006.

P.C.

1. The Plaintiffs have sold and delivered certain goods to the Defendant in the ordinary course of business. The Defendant has disputed the receipt of the material/goods. There have been various transactions between the parties. Upon to the admitted transactions the Defendant has made payment by certain cheques enumerated in paragraph No.3 of the Plaint. Each of the cheques are stated to have been dishonoured. The Plaintiffs have adopted proceedings under Section 138 of the Negotiable Instrument Act in the Court of the learned Magistrate.

2. The Plaintiffs require security as well as attachment before Judgment and an order of injunction in respect of an immovable property of the Defendant upon the premise the Defendant is going to dispose of his only asset. The Plaintiffs have valued the suit at the price payable to the Plaintiffs. The Plaintiff's claim that the immovable property is approximately of the same amount.

The immovable property for which the injunction and the attachment before Judgment are claimed is not itself valued. The suit is also therefore, not correctly valued. The suit is required to be valued upon the value of the immovable property for which the reliefs are sought.

3. The Plaintiffs have chosen the remedy under the Negotiable Instruments Act which my result in conviction of the Defendant. After undertaking such a remedy the Plaintiffs cannot prevent the Defendant from fully utilising and transferring his property. Hence, the reliefs claimed in the Notice of Motion cannot be granted in view of the earlier relief already sought. There shall be no order on the Notice of Motion. No order as to costs.

(SMT. ROSHAN DALVI, J.)